

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING  
June 6, 2012  
7:30 P.M.  
Room 206, Town Hall

Acting Chairman Rohr called the meeting to order at 7:30 P.M

Commission Members Present: Rick Rohr, Wynne Shapiro, Pete Kenyon, Ed Sweeney, Keith Kearney, Vickie Riccardo

Staff : Jacobson

Court Reporter: Syat

Channel 79 recorded the meeting

Mr. Rohr called the first agenda item:

EPC-07-2012, Ruth & Ian Crowe, 26 Raymond Street, proposing replacement house and related site development within an upland review area. The site is shown on Assessor's Map #36 as Lot #101

Jacek Bigosinski, Architect, represented the applicant. He said the plans were revised to show the retaining wall in the same location as the existing wooden wall.

Ms. Riccardo made a motion to approve the application. Mr. Rohr requested a condition that construction notes #1 and #2 be reversed. Ms. Riccardo amended her motion. Mr. Kenyon seconded the motion and it passed 6-0.

Mr. Rohr called the next agenda item:

EPC-14-2012, Patric & Xenia Mesot, 11 Queens Lane, proposing construction activities related to new house construction within an upland review area. The site is shown on Assessor's Map #63 as Lot #99

Len D'Andrea, P.E. represented the applicant. He introduced Aleksandra Moch, Wetland Scientist.

Mr. D'Andrea said they provided a sketch of the proposed demarcation monuments. He said they are proposing to remove 1,600 square feet of lawn and 1,100 square feet of house and pool within the upland review area. He said the proposed regulated activities are 60 square feet of disturbance within the 50 foot review area and 1000 square feet in the 100 foot review area. The overall reduction in impervious surface area on the entire site is 4,200 square feet.

Aleksandra Moch described the invasive species removal and the restoration activities in the upland review area.

Mr. Rohr asked if the monument height could be raised above 2". Mr. D'Andrea said yes. Mr. Rohr suggested 4" and Mr. D'Andrea agreed.

Mr. Rohr made a motion to approve the application with the 4" monument height. Mr. Kenyon seconded the motion and it passed 6-0.

Mr. Rohr called the following agenda item:

EPC-19-2012, John & Susan Wilson, 40 Hanson Road, proposing to amend the "Regulated Wetlands and Watercourses Map". The site is shown on Assessor's Map No. 9 as Lot #112-A

Mr. Rohr noted that a public hearing is required for a map amendment. The Commission scheduled the public hearing for July 11.

Mr. Rohr called the following agenda item:

EPC-20-2012, J. Baron Land Corporation, 0 Shagbark Road, proposing new house construction, septic system, and related grading within an upland review area. The site is shown on Assessor's Map #2 as Lot #21

The Commission discussed that there is a direct impact proposed by crossing the stream, therefore, because of potential significant impacts a public hearing should be required.

Mr. Rohr made a motion to require a public hearing. Mr. Kenyon seconded the motion and it passed 6-0. The public hearing was scheduled for July 11.

The Commission requested the following additional information: Identify trees to be removed; stake the proposed house in the field; and provide a planting list.

Mr. Rohr called the following agenda item:

James & Hallie Palen, 45 Brookside Road, violation of Conservation Easement conditions. The site is shown on Assessor's Map #15 as Lot #17

Mr. Rohr noted that Mr. Palen sent an e-mail requesting postponement until the next meeting on July 11.

The Commission determined that, since the easement language does not allow mowing, they directed staff to notify Mr. Palen that mowing is not permitted pending resolution of this matter. The also directed staff to notify Mr. Palen that they will be discussing requirements for restoration and methods of further protecting the easement in the future.

Mr. Rohr called the next agenda item:

EPC-21-2012, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing a paddle tennis court in an upland review area. The site is shown on Assessor's Map #7 as Lot #66

Mr. Kearney was recused for this item.

Attorney Robert Maslan represented the applicant. He introduced Matt Popp, Landscape Architect and Tom Nelson, P.E.

Mr. Maslan provided an aerial photo of the site showing the existing paddle courts and the inland wetland boundary. He said the new paddle court is located in an upland review area.

Matt Popp described the proposed rain garden that will treat runoff from the existing cart path and impervious surfaces. He said they are adding trees and shrubs along the wetland edge to provide screening and wildlife value.

Mr. Rohr asked if the cart path is being moved. Mr. Popp indicated a location where the path is shifting slightly. Mr. Rohr asked if the cart is paved. Mr. Popp said yes. Mr. Rohr asked if the path is curbed. Mr. Popp said yes.

Mr. Kenyon asked if there will be an increase in impervious surface area. Mr. Nelson said there will be a 1,300 square foot decrease in asphalt and an increase in roof area from the new warming hut.

Ms. Shapiro asked about the surface of the terrace. Mr. Popp said it will be flagstone.

Mr. Kenyon asked about the surface under the court. Mr. Popp said it will be gravel.

Mr. Sweeney made a motion to approve the application. Ms. Shapiro seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-22-2012, Gene & Tracy Sykes, 5 Homewood Lane, proposing pond dredging. The site is shown on Assessor's Map #65 as Lot #3

Ed Figura, Landscape Architect represented the applicant. He described the proposed dredging project and wetland enhancement planting plan. They are proposing to convert a portion of the manicured lawn to wet meadow, and add planting in the upland review area.

Mr. Sweeney asked when the pond was last dredged. Mr. Figura said he didn't know.

Mr. Kenyon asked why they are dredging the pond now. Mr. Figura said the pond is not attractive.

Mr. Kenyon made a motion to approve the application. Mr. Kearney seconded the motion and it passed 6-0.

Mr. Rohr called the following public hearing to order:

Steven J. and Tracy D. Culliton, and George & Jill Sullivan, 225 and 235 Brookside Road,  
Request to install 280 square feet of paved driveway within a conservation easement area  
(continued from May 2)

EPC-11-2012, Steven J. and Tracy D. Culliton, 225 and 235 Brookside Road, proposing driveway construction and related grading in an upland review area. The site is shown on Assessor's Map #5 as Lot #17-2, 17-3. (continued from May 2)

Attorney Wilder Gleason represented the applicant. He introduced Kate Throckmorton, Landscape Architect. Mr. Gleason said they submitted an alternative sketch for the wall and a revised easement sketch showing a 2:1 ratio of additional easement area.

Ms. Throckmorton reviewed the revisions to the wall and additional plantings. She said the proposed easement is slightly bigger in area than a 2:1 increase to compensate for the area proposed to be impacted by the driveway.

Mr. Rohr asked if there was any public comment. There were no members of the public who wished to speak.

Ms. Riccardo made a motion to close the public hearing. Ms. Shapiro seconded the motion and it passed 6-0.

The Commission will deliberate on the application at the next meeting.

Mr. Kenyon said he will not be able to attend the next meeting. He is in favor of approving the application, provided the additional easement area is the 2:1 alternative presented.

Ms. Riccardo said she will also miss the next meeting and is in favor of approving the 2:1 easement alternative.

Mr. Rohr called the following public hearing to order:

EPC-16-2012, Kaali-Nagy Partners, LLC, 123 Five Mile River Road, proposing construction of two residences within an upland review area. The site is shown on Assessor's Map #67 as Lot #2

Rob Frangione, P.E. represented the applicant. He provided an overview of the application.

Mr. Frangione said there are no inland wetlands or watercourses on the property. He said the Five Mile River is a coastal water. He said the existing house is 35 feet from the river and is served by a septic system. He said the new homes will be served by sewer and water. He said 5000 cubic yards of material will be removed. Runoff will be pre-treated in a water quality system, including underground galleries piped to a level spreader to prevent a point discharge. He said the pool patios will be directed to a bioretention basin. He said a maintenance plan is included.

Mr. Frangione said there will be no adverse impacts to wetlands. He said the septic system will be removed. He said that water now runs off the site unabated. The runoff from the developed site will be treated according to the 2004 DEEP Water Quality Manual. An existing lawn area will be replaced by planting. He said there will be a net benefit to the river. He said they have satisfied the feasible and prudent alternatives analysis.

Mr. Rohr asked if the bioretention planter will be shared. Mr. Frangione said yes, they will have a maintenance agreement.

Mr. Rohr asked if all of the gutters will be directed to the pretreatment system. Mr. Frangione said yes.

Mr. Rohr asked if the wall along the river will stay. Mr. Frangione said yes.

Mr. Rohr asked about tree removal. Mr. Frangione said one large tree near the pier in the upland review area will be removed.

Ms. Riccardo said she is concerned about the proposed shared maintenance of the biofilter. Mr. Frangione said it is only a small area of the site runoff.

Mr. Kearney asked if the proposed maintenance will be carried out by a contractor. Mr. Frangione said it could be, or the homeowner could do it.

Mr. Kenyon asked staff if the planting plan was reviewed. Mr. Jacobson said the plantings appeared adequate for the bioretention basin.

Mr. Rohr asked if they would process the stone on site. Mr. Frangione said it was not definite.

Mr. Rohr opened the hearing for public comment.

Callie Sullivan, 118 Five Mile River Road spoke about the exponential amount of impervious surface being added and the loss of natural grasses. She said they are eliminating the barrier between the river and homes.

Ms. Sullivan said the neighborhood has formed the Five Mile River Preservation Group. She said the proposal for two large homes on this unique terrain will damage the environment and the entire community. The site is an important public vista which should not be destroyed. She said if these issues are not in the Commission's purview she urged the Commission to make a strong recommendation to Planning & Zoning as a Conservation Commission.

Ms. Sullivan said the group did try to address their concerns with the developer and met with him but their concerns were not addressed.

David Sinclair provided a handout with photos and copies of paintings. He described the photos and paintings and said the vistas and views south on the Five Mile River are extraordinary. He said the Commission should consider the unique scenic value of the property.

Win Jessup, 122 Five Mile River Road said the CAM Act is about preventing excessive growth and preventing loss of coastal resources. She said the applicant should provide a complete inventory of plants and animals. She said the applicant must consider less damaging alternatives.

Bob Gadsden, 115 Five Mile River Road said the project will create a permanent alteration of the vista and the site topography. The project will have a significant environmental impact. He submitted exhibits comparing the existing and proposed topography. He said the 5000 cubic yards is an estimate. He said the estimate could approach 6000 cubic yards. He discussed the visual impact on the site and provided a rendering of the proposed house. He said the coverage will be

excessive and the project will be environmentally damaging. He cited the report by Craig Flaherty on the Town EPC website which states that greater than 25% impervious coverage is significant in contributing to flooding. The proposed project has 35% coverage. In his opinion it is closer to 40 or 50%.

Jillian Nelson provided a photo of trees on the property. She expressed concern for the extent of blasting and the potential impact on trees on her property.

Sean Burke, 128 Five Mile River Road disagreed with the developer's statement of environmental benefits. He said he believes the water table in the area is elevated due to blasting and is the cause for a tree dying on his property.

Rich Barker, 55 Rowayton Avenue, Norwalk said the waterfront development across the river has caused a decline in the bird population and fishing. He said there were runoff problems due to blasting from previous projects.

Joei Reiner Gallo, 130 Five Mile River Road, said the granite on the site has historical significance. It was referred to historically as loading rock.

Attorney Wilder Gleason said the ZBA will be considering an appeal of the decision to allow a free cut to create two building lots. He said the Commission can make a recommendation on the referral from P&Z. He said the plans are inadequate. He said the consideration of trees to be removed should not be just large trees but should go down to 6". He said the CAM Act section 22a-93 requires consideration of adverse impacts.

Rob Frangione, P.E. said the project will not impact wetlands or watercourses and has been no testimony of adverse impact to wetlands or watercourses. He said the project will have a net benefit.

Mr. Kenyon said he would like to see an environmental assessment. Mr. Jacobson said the Commission is limited in their scope of review to consider direct impacts to the river under the Inland Wetland Regulations, but can comment on all aspects of the project related to CAM as a Conservation Commission. The current application does not contain a complete CAM assessment, and the Commission should include that comments in their report to the P&Z Commission.

Ms. Shapiro asked Mr. Frangione to explain how there will be an improvement to water quality. Mr. Frangione said there are currently no runoff controls and the proposal will provide runoff controls. They are also proposing to remove a septic system near the river.

Mr. Kearney asked about how much of the site is existing impervious surface. Mr. Frangione said he did not have that number. The Commission asked him to provide a comparison of existing and proposed coverage.

Mr. Barker asked if there is evidence the current site is creating a runoff issue. He also asked about the CT DEEP manual being a minimum standard.

Mr. Frangione said it is not a minimum but it is the only standard.

The Commission left the hearing open for the submittal of additional information from Mr. Frangione regarding the existing and proposed impervious surface conditions.

The Commission continued the hearing until July 11.

Mr. Kenyon made a motion to approve the minutes of April 4, as amended. Ms. Riccardo seconded the motion and it passed 6-0.

Mr. Kenyon made a motion to approve the minutes of May 2, as amended. Mr. Rohr seconded the motion and it passed 5-0. Mr. Sweeney abstained.

Mr. Kenyon made a motion to adjourn. Mr. Kearney seconded the motion and it passed 6-0. The meeting adjourned at 10:05 p.m.

Respectfully submitted,

Richard Jacobson  
Environmental Protection Officer